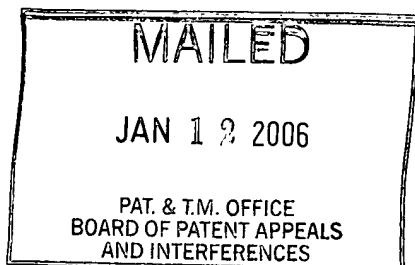




UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Sally Gardner Lane
Telephone: (571) 272-9797
Facsimile: (571) 273-0042



Applicants: Lentz
Application No.: 09/709,045
Filed: 11/10/00
For: Method and system to remove
cytokine inhibitor in patients

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,413.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

Sally Gardner Lane
Administrative Patent Judge

Mail Stop Interference
P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

Filed
January 12, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MARK DOUGLAS HOWELL,
CHERYL LYNN SELINSKY, and LELAND CHARLES LEBER
Junior Party
(Patent 6,379,708),

v.

M. RIGDON LENTZ
Senior Party
(Application 09/709,045).

Patent Interference No. 105,413
(Technology Center 1600)

MAILED

JAN 12 2006

PAT. & TMA OFFICE
BOARD OF PAT. INT. APPEALS
AND INTERFERENCES

DECLARATION - Bd.R. 203(d)¹

1 **Part A. Declaration of interference**

2 An interference is declared (35 U.S.C. § 135(a)) between the above-identified
3 parties. Details of the application(s), patent (if any), reissue application (if any),
4 count(s) and claims designated as corresponding or as not corresponding to the
5 count(s) appear in Parts E and F of this DECLARATION.

6 **Part B. Judge managing the interference**

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

Administrative Patent Judge Sally Gardner Lane has been designated to manage the interference. Bd. R. 104(a).

Part C. Standing order

A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

Part D. Initial conference call

A telephone conference call to discuss the interference is set for **7 March 2005 at 2:00 pm** (the Board will initiate the call).

No later than **four business days** prior to the conference call, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER and a default schedule is attached to this Declaration. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

Part E. Identification and order of the parties

Junior Party

Named inventors: Mark Douglas Howell
Fort Collins, CO

Cheryl Lynn Selinsky
Fort Collins, CO

Leland Charles Leber
Fort Collins, CO

Involved Patent: 6,379,708, issued 30 April 2002
from application 09/444,144, filed 20 November 1999

Title: METHOD FOR ENHANCING IMMUNE RESPONSES
IN MAMMALS

Assignee: CYTOLOGIC, LLC CENTRE FOR ADVANCED
TECHNOLOGY

Senior Party

Named Inventors: M. Rigdon Lentz
Brentwood, TN

Involved Application: 09/709,045, filed 10 November 2000

Title: METHOD AND SYSTEM TO REMOVE CYTOKINE
INHIBITOR IN PATIENTS

Assignee: BIOPHERESIS TECHNOLOGIES, INC

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

1 **Part F. Count and claims of the parties**

2 Count 1

3 Claim 23 of Lentz (09/709,045) or claim1 of Howell (6,379,708).

4

5 The claims of the parties are:

6 Howell: 1-44

7 Lentz: 23-41

8 The claims of the parties which correspond to Count 1 are:

9 Howell: 1-44

10 Lentz: 23-41 The claims of the parties which do not correspond to

11 Count 1, and therefore are not involved in the interference, are:

12 Howell: none

13 Lentz: none

14 The parties are accorded the following benefit for Count 1:

15 Howell: none

16 Lentz: US 09/699,003, filed 26 October 2000

17

18 US 09/316,226, filed 21 May 1999,

19 issued as patent 6,231,536 on 15 May 2001

20

21 US 09/083,307, filed 22 May 1998

22 issued as patent 6,620,382 on 16 September 2003

23

24 **Part G. Heading to be used on papers**

25 The following heading must be used on all papers filed in this interference, see

26 SO ¶ 106.1.1:

27

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3
4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

7
8 MARK DOUGLAS HOWELL,
9 CHERYL LYNN SELINSKY, and LELAND CHARLES LEBER
10 Junior Party
11 (Patent 6,379,708),
12

13 v.
14

15 M. RIGDON LENTZ
16 Senior Party
17 (Application 09/709,045).
18

19 Patent Interference No. 105,413
20 (Technology Center 1600)
21
22

23 **Part H. Order form for requesting file copies**

24 When requesting copies of files, use of SO Form 4 will greatly expedite
25 processing of the request. Please attach a copy of Parts E and F of this
26 DECLARATION with a hand-drawn circle around the patents and applications for which
27 a copy of a file wrapper is requested.

/Sally Gardner Lane/
Administrative Patent Judge

Enc:

Copy of STANDING ORDER
Form PTO-850
Copy U.S. Patent 6,379,708
Copy of claims of 09/709,045
Copy of default times for taking action

Revised 3 January 2006

cc (via overnight delivery):

Attorney for HOWELL:

BUCHANAN INGERSOLL
BURNS, DOANE, SWECKER & MATHIS, LLP
1737 King Street
Suite 500
Alexandria, VA 22314

Tel: 703-836-6620

Attorney for LENTZ:

Patrea L. Pabst
PABST PATENT GROUP LLP
400 Colony Square
Suite 1200
Atlanta, GA 30361

Tel: 404-879-2151